

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

JAMES D. KONCAK and	§	
JUDI K. KONCAK,	§	
	§	
Plaintiffs/Counter-Defendants	§	
	§	
v.	§	No. 3:19-cv-00071-B-BT
	§	
DEUTSCHE BANK NATIONAL TRUST	§	
COMPANY and OCWEN LOAN	§	
SERVICING, LLC,	§	
	§	
Defendants/Counter-Plaintiffs	§	

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

The Court has under consideration the Findings, Conclusions, and Recommendation of United States Magistrate Judge Rebecca Rutherford dated August 17, 2020. The Court has reviewed *de novo* the portions of the Findings, Conclusions, and Recommendation to which objections were made. The objections are overruled. The Court accepts the Findings, Conclusions, and Recommendation of the United States Magistrate Judge. It is therefore:

ORDERED and DECREED that *plaintiffs* James D. Koncak and Judi K. Koncak take nothing on their claims against Defendants.

It is further ORDERED and DECREED that Plaintiffs' claims are hereby dismissed in their entirety ***with prejudice***.

It is further ORDERED and DECREED that Defendants prevail on their Counterclaim for Foreclosure against Plaintiffs.

It is further ORDERED and DECREED that an event of default has occurred on that certain

Texas Home Equity Adjustable Rate Note (“**Note**”) in the principal amount of \$396,000.00, originally payable to Fremont Investment & Loan, as lender on a loan secured by the real property (the “**Property**”) and improvements commonly known as 8835 Arborside Drive, Dallas, TX 75243, and more particularly described as:

LOT 11, BLOCK M/8156, FOREST MEADOWS ADDITION NO. 4, AN ADDITION TO THE CITY OF DALLAS, DALLAS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 73020, PAGE 895, MAP RECORDS, DALLAS COUNTY, TEXAS.

It is further ORDERED and DECREED that certain Texas Home Equity Security Instrument (“**Security Instrument**” and together with the Note, “**Loan**”), filed for record on June 21, 2008, in the Official Public Records of Dallas County, Texas, as Instrument Number 200600226143, grants Fremont Investment & Loan, its successors and assigns, a security interest in the Property, and provides Deutsche Bank—as the current holder of the Note and beneficiary of the Security Instrument—in the event of a default on the obligations on the Note, with a first lien security interest on the Property.


It is further ORDERED and DECREED that Deutsche Bank is the current holder and owner of the Note, and grantors under the Security Instrument.

It is further ORDERED and DECREED that maturity of the subject Loan has been accelerated and all sums due thereunder are now due and owing.

It is further ORDERED and DECREED due to event of default on the Note, Defendants, or their successors on assigns, may enforce Deutsche Bank’s lien through foreclosure of the Property via trustee’s sale at public auction, as provided in the Security Instrument and Texas Property Code Section 51.002.

It is further ORDERED and DECREED that the purchaser at the foreclosure sale authorized by this order will be vested with all of the interest in the Property held by Plaintiffs.

SO ORDERED this 1st day of September, 2020.



JANE J. BOYLE
UNITED STATES DISTRICT JUDGE